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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/413,348 10/06/99 FUKUTOMI

N Q56091

QM02/1015
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WASHINGTON DC 20037

EXAMINER

KIM, C

ART UNIT

PAPER NUMBER

3752

DATE MAILED:

10/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 09/413,348	Applicant(s) Fukutomi et al.
Examiner Christopher S. Kim	Art Unit 3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 7 Aug 2001

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 2-7 is/are pending in the application

4a) Of the above, claim(s) 3-5 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 2, 6, and 7 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) <input type="checkbox"/> Notice of References Cited (PTO-892)	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	20) <input type="checkbox"/> Other: _____

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DETAILED ACTION

Response to Amendment

1. Amendment filed August 7, 2001 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites "an elastic member" in line 2. It appears to be a double inclusion of "an elastic member" recited in claim 6, line 4.

Claim 7 recites the limitation "the nozzle opening side" in 6. There is insufficient antecedent basis for this limitation in the claim.

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Claim Rejections - 35 USC § 102

5. Claims 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Asano.

With respect to claims 6 and 7, Asano discloses a fuel injection valve comprising: a buffer portion 39 being an elastic member (O-ring); a fuel passage 22f; an end face (down stream side of 32); a nozzle opening 27. O-ring 39 inherently functions as a buffer portion.

With respect to claim 2, Asano further discloses a buffer portion 39 being an elastic member (O-ring); a sleeve 38, 40; a core 36; a valve holder 22; a solenoid 43, 44, 47.

Response to Arguments

6. Applicant's arguments filed August 7, 2001 have been fully considered but they are not persuasive.

In response to applicant's argument that Asano does not disclose at least the following:

a buffer portion for damping a change of fuel pressure caused by valve bounce when the needle is closed, said buffer portion being an elastic member disposed at a position at which said buffer portion faces and contacts a fuel passage,

the recitation "for..." has been considered to recite the manner in which the buffer portion is intended to be employed and does not differentiate the buffer portion from the prior art satisfying the claimed structural limitations. Additionally, the O-ring of Asano, in functioning to seal the fuel injector, contacts the fuel. The elastic properties of the O-ring inherently functions as a buffer

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portion, which also appears to be the case in applicant's claimed invention. An O-ring is understood by one of ordinary skill in the art to possess elastic properties. The O-ring faces and contacts a fuel passage (figure 1, t2). This also appears to be the case in applicant's claimed invention as shown in figure 1 which shows rubber ring 18 between sleeve 17 and core 4.

In response to applicant's argument that the O-ring of Asano does not come into contact with the fuel passage, then how does fuel contact the O-ring of Asano? If fuel does not come into contact with the O-ring, then why is the O-ring required to prevent leaks in the device of Asano?

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for this Group is (703) 308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.



David A. Scharbel
Supervisory Patent Examiner
Group 3700

CK

October 11, 2001